



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,960	07/24/2001	Ola Olofsson	TPP 30887CIP2	4841

7590

07/18/2007

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington, DC 20036

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 07/18/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/910,960

Applicant(s)

OLOFSSON ET AL.

Examiner

Victor MacArthur

Art Unit

3679

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02 May 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

NO NEW TIME PERIOD WILL BE SET since applicant has failed to correct the deficiencies noted in previous Notifications. To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of the **PREVIOUS NOTIFICATION MAILED ON 12/4/2006**, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



Victor MacArthur
Patent Examiner
Art Unit 3679

Continuation of 10. Other (including any explanation in support of the above items):

The "Summary of Claimed Subject Matter" section fails to include the reference character associated with each claimed element (e.g., "guiding means", "core", "fitting clearance", "first part of the fitting clearance", "second guiding fitting clearance", "main part", "smaller part", "distal angled surface", "section extending from the distal angled surface", "glue", etc. Note that reference to the drawings of the claimed subject matter is to be by reference characters. See 37 CFR 41.37(c). The examiner notes that SOME (but not all) of the above elements are shown in the marked up figure of page 2 of the proposed Brief. However, as stated in the interview of 5/1/2007, an appeal brief cannot contain subject matter (reference characters, figures, descriptions) that are not present in the disclosure of the application. The examiner suggests filing an RCE such that the application written description and drawings can be amended to provide proper antecedent basis for ALL of the claimed subject matter since such antecedent basis is required before any appeal brief can be forwarded to the board. The examiner notes the applicants statement that "guiding means" does not invoke 112 6th. However, even though the term is merely a label, it designates structure that must find proper antecedent basis in the written description of the specification and in the drawings; as must all positively claimed elements.

The "Summary of Claimed Subject Matter" section fails to refer to each and every recited claim element by page and line number of the written description of the specification. For example, the angled distal surface has not been properly referenced/identified. With respect to this example, it is noted that the entire last paragraph of page 2 is referenced at the end of the sentence that mentions "angled distal surface". However, nowhere in this paragraph is any mention found of the angled distal surface. It is further noted that some elements are defined by reference to "original" claims. This is improper. The purpose of this section is to identify where in the written description of the specification the subject matter is found and what the subject matter is (by reference characters). Contrary to the applicant's arguments and footnote 3 of page 3, claims, regardless of when they were filed, cannot be relied upon to describe other claims. This requirement is routine and cannot be overcome by argument.

Note that the applicant should submit an Interview Record regarding the interview of 5/1/2007 with any response hereto.